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PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lee and McPherron Art Unit: 1646
Application No.: 09/708,693 Examiner: J. Andres
Filed: November 7, 2000
Title: POLYNUCLEOTIDES ENCODING PROMYOSTATIN PEPTIDES

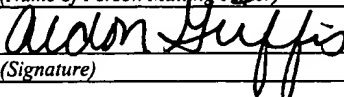
Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL SHEET

Sir:

Transmitted herewith for the above-identified application please find:

1. Response to the Office Action dated July 16, 2001;
2. Return Receipt Postcard.

CERTIFICATION UNDER 37 CFR §1.8	
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, August 13, 2001, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.	
Aldon Griffis (Name of Person Mailing Paper)	
 (Signature)	August 13, 2001 (Date)

In re Application of:
Lee and McPherron
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PATENT
Attorney Docket No.: JHU1120-15

The Fee for this Response is calculated as follows:

For	Claims Remaining After Amendment	Highest Number Previously Paid For	Extra Claims	Large Entity Rate	Small Entity Rate	Calculations
Total Claims	29	29	0	x \$18	x \$09	\$.00
Independent Claims	3	3	0	x \$80	x \$40	\$.00
Multiple Claims				\$270	\$135	\$.00
Basic Filing Fee				\$710	\$355	\$.00
					TOTAL FEE	\$.00

No fee is deemed necessary in connection with the filing of this paper. However, if a fee is required, the Commissioner is hereby authorized to charge any other fees associated with the filing submitted herewith, or credit any overpayments to Deposit Account No. 50-1355. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: August 13, 2001



Lisa A. Haile, J.D., Ph.D.
Registration No. 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

USPTO Customer Number 28213

GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1600
San Diego, CA 92121-2189



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Attorney Docket No.: JHUI20-15

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lee and McPherron Art Unit: 1646
Application No.: 09/708,693 Examiner J. Andres
Filed: November 7, 2000
Title: POLYNUCLEOTIDES ENCODING PROMYOSTATIN PEPTIDES

Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO THE REQUEST TO ELECT A SPECIES

Sir:

Responsive to the Office Action mailed July 16, 2001 (Paper No. 7), in connection with the above-identified patent application, consideration of the following remarks is respectfully requested.

It is stated in the Office Action that the sequences set forth as SEQ ID NOS:2, 4, 6, 8, 10, 12, 14, 116, 18, 20, 27 and 29 represent different proteins with distinct structures and different characteristics and, therefore, requested that a polynucleotide encoding one of the species be elected for examination. Although Applicants traverse the requirement to elect a species for the reasons set forth below, in order to be fully responsive to the Action, Applicants elect the species of polynucleotide encoding murine promyostatin (SEQ ID NOS:3 and 4; polynucleotide and polypeptide sequences, respectively). It is noted that claims 1, 2, 3, 4, 9 to 22, and 27 to 29 are readable on the elected species.

The requirement to elect a species is traversed generally with respect to all of the sequences as set forth above, and particularly respect to polynucleotide sequences encoding SEQ ID NOS: 2, 6, 10, 12, 14 and 16 (including SEQ ID NOS:1, 5, 9, 11, 13 and 15, respectively). Applicants submit that, while the species as set forth are independent and patentably distinct, the encoded promyostatin polypeptides share a commonality of operation, function and effect (MPEP § 806.04(e)).

CERTIFICATION UNDER 37 CFR §1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, August 13, 2001, in an envelope addressed to:
Commissioner for Patents, Washington, D.C. 20231

Aldon Griffis
Aldon Griffis

August 13, 2001

Specifically, the encoded promyostatin polypeptides share a common function in that they are cleaved to produce myostatin, which is involved in muscle growth and development (see, for example, page 10, lines 1-12; page 42, lines 16-19). Furthermore, the various encoded promyostatin polypeptide sequences share substantial sequence identity as is evident by inspection of Figures 1 and 2 (see, also, page 10, lines 14-16). As such, unless only the most stringent search parameters are used, any prior art search of one of the polynucleotides encoding a promyostatin polypeptide will identify the other disclosed polynucleotides.

Since the various promyostatin polypeptides have a commonality of operation, function and effect, and further share substantial sequence identity, it is submitted that an election of one species should not be required and that the polynucleotides encoding all of the disclosed promyostatin polypeptides should be examined together. Notwithstanding Applicants' position that the polynucleotides encoding all of the promyostatin polypeptides should be examined, it is submitted that, as an alternative, the Examiner consider that at least the polynucleotides encoding all of the mammalian promyostatin polypeptides, which, in addition to elected SEQ ID NOS:3 and 4 include SEQ ID NOS:1 and 2, 5 and 6, 9 and 10, 11 and 12, 13 and 14, and 15 and 16, should be examined together.

In summary, the species set forth as the polynucleotide encoding SEQ ID NO:4, including SEQ ID NO:3, is elected with traverse. However, for the reasons set forth above, it is respectfully requested that the Examiner reconsider this election requirement and rejoin and examine the polynucleotides encoding all of the disclosed promyostatin polypeptides together, or, in the alternative, at least rejoin and examine the polynucleotides encoding the promyostatin polypeptides set forth as SEQ ID NOS: 2, 6, 10, 12, 14 and 16 (including SEQ ID NOS:1, 5, 9, 11 and 15) with elected polynucleotide encoding SEQ ID NO:4, including SEQ ID NO:3.

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Attorney Docket No.: JHU1120-15

No fee is deemed necessary in connection with the filing of this Response. However, if any fee is required, the Commissioner is authorized to charge any fee (or credit any overpayment) to Deposit Acct. No. 50-1355.

The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

Respectfully submitted,

Dated: August 13, 2001



Lisa A. Haile, Ph.D.
Reg. No. 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1600
San Diego, CA 92121-9931

Customer Number: 28213